

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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TEXAS EASTERN TRANSMISSION, LP, a	:	
limited partnership of the State of Delaware	:	Civil Action No. 14-167-SRC-CLW
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
0.077 Acres of Land, More or Less, In The City	:	DECLARATION OF
of Jersey City, Hudson County, New Jersey;	:	CHRISTOPHER J. DALTON
COLES JERSEY DEVELOPMENT CO., LLC;	:	IN SUPPORT OF COLES JERSEY
OGDEN REALTY CO.; JANE AND JOHN	:	DEVELOPMENT CO., LLC'S
DOES 1 through 50 (fictitious name defendants);	:	OPPOSITION TO PLAINTIFF'S MOTION
and ABC BUSINESS ENTITIES 1 through 50	:	FOR SUMMARY JUDGMENT
(fictitious name defendants),	:	
	:	
Defendants.	:	

1. I am an attorney at law of the State of New Jersey, a member in good standing of the Bar of this Court, a shareholder in the firm of Buchanan Ingersoll & Rooney PC, and attorney of record for Coles Jersey Development Co., LLC ("Defendant").

2. I make this Declaration in support of Defendant's opposition to Plaintiff's motion for summary judgment.

3. Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the deposition William Ackman.

4. Attached hereto as Exhibit 2 is a true and correct copy of exhibit WA-6 from Mr. Ackman's deposition.

5. Attached hereto as Exhibit 3 is a true and correct copy of a July 3, 2013 Release from Hoboken Brownstone Company to Ogden Realty Company and Texas Eastern Transmission. This release is also in the record as Exhibit H to the January 9, 2014 Certification of Franklin S. Gessner (DE 1-6).

I declare under penalty of perjury that the foregoing is true and correct.

s/Christopher J. Dalton

Christopher J. Dalton

November 19, 2018

EXHIBIT 1

In The Matter Of:
Texas Eastern v.
0.077 Acres of Land

William Ackman
October 16, 2015

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Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 14-167-SRC-CLW

4 -----)
5 TEXAS EASTERN) DEPOSITION UPON
6 TRANSMISSION, LP,) ORAL EXAMINATION
7 a limited partnership) OF
8 of the State of) WILLIAM ACKMAN
9 Delaware,)
10 Plaintiff,)
11 v.)
12 0.077 Acres Of Land,)
13 More or Less, In The)
14 City of Jersey City,)
15 Hudson County, New)
16 Jersey, COLES JERSEY)
17 DEVELOPMENT CO., LLC,)
18 OGDEN REALTY CO.,)
19 JANE AND JOHN DOES 1)
20 through 50)
21 (fictitious name)
22 defendants) and ABC)
23 BUSINESS ENTITIES 1)
24 through 50)
25 (fictitious name)
defendants),)
Defendants.)
-----)

20 T R A N S C R I P T of the
21 stenographic notes of JOMANNA DEROSA, a
22 Certified Court Reporter of the State of New
23 Jersey, New York, California, and Arizona,
24 taken at the offices of PERSHING SQUARE
25 CAPITAL MANAGEMENT, 888 7th Avenue, New
York, New York, on Friday, October 16, 2015,
commencing at 2:04 p.m.

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20 ALSO PRESENT:

21 DAVID KLAFTER, ESQ.
22 Pershing Square Capital Management, L.P.

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1 WILLIAM ACKMAN,
2 having been first duly sworn,
3 testified as follows:
4 DIRECT EXAMINATION BY MR. SMITH:
5 Q. Good afternoon, Mr. Ackman. We
6 just met. My name is Jeff Smith. I represent
7 the plaintiff in this case, the pipeline
8 company, Texas Eastern Transmission, which is,
9 as you know, owned by Spectra.

10 A. Yes.

11 Q. And Michael Ash is with me, and
12 we're to wrap up the fact part of the case over
13 the Jersey City property. Okay?

14 A. Yes.

15 Q. You've had your deposition taken
16 before, I assume?

17 A. I have.

18 Q. How many times?

19 A. In my life?

20 Q. Yes.

21 A. Ten, eight, something like that.

22 Q. We'll dispense with the
23 instructions and try to move this along. Just
24 also to move it along and keep everybody
25 focused, I'll refer to the property that's at

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<p>Ackman - Direct</p> <p>Page 5</p> <p>1 issue here. It's bounded by Coles Street, 17th 2 and 18th Street in Jersey City as either the 3 property in Jersey City or the Coles Street 4 property. Is that satisfactory? 5 A. Yes. 6 Q. Okay. And if there's any doubt or 7 there's another property that comes into play, 8 please ask me to clarify or you clarify if 9 you're referring to something else. 10 Do you have any other real estate 11 interests in Jersey City at this point? 12 A. I don't think so. 13 Q. Okay. Are you aware that some 14 documents were produced on your behalf in this 15 litigation? 16 A. Yes. 17 Q. Okay. Did you play any role in 18 searching for those documents? 19 A. I don't believe so. I think my 20 general counsel handled it. 21 Q. Okay. All right. That was my next 22 question. So, just for the record, who, if 23 anyone, was involved? 24 A. I don't know for sure, but it would 25 have been at least my general counsel or led by</p>	<p>Ackman - Direct</p> <p>Page 7</p> <p>1 A. Yes. 2 Q. What did you review? 3 A. They gave me a stack, I think, of 4 what we produced to you. 5 Q. Okay. Fair enough. Do you recall 6 specifically what that was, the nature of the 7 documents? 8 A. E-mails, an environmental report, 9 an LLC agreement, stuff like that. 10 Q. Okay. Have you spoken to Danny 11 Ganz (phonetic) about this litigation? 12 A. Not in a very long time. 13 Q. When did you last speak to Mr. Ganz 14 about this case? 15 A. Six months ago. I'm not sure of 16 that exact date. It could have been 12 months 17 ago. 18 Q. If it's an estimate, just tell us 19 it's an estimate or an approximation. 20 A. Around the time that -- when this 21 started, I guess. I don't even know. 22 MR. DALTON: January 2014 was it? 23 MR. SMITH: Yes. 24 Q. About 18 months, 20 months? 25 A. Okay. So, it could have been a</p>
<p>Ackman - Direct</p> <p>Page 6</p> <p>1 him. I don't know if you'd call it my general 2 counsel or special counsel or senior counsel, 3 but he's a lawyer. 4 (WA-1 marked for identification.) 5 Q. So you have a copy in front of you? 6 A. Yes. 7 Q. And the question to you certainly 8 is have you ever seen that before? 9 A. I'm not sure. 10 Q. Okay. And I take it you didn't 11 review any lists of requests or anything. 12 A. No. 13 Q. You delegated production. And as 14 far as you know, everything that was responsive 15 to the request has been produced? 16 A. Yes. 17 Q. All right. Are you aware of any 18 documents that were withheld or otherwise not 19 produced? 20 A. No. 21 Q. Okay. Who did you speak to in 22 preparation for the deposition? 23 A. The two gentlemen to my left. 24 Q. Very well. Did you review 25 anything?</p>	<p>Ackman - Direct</p> <p>Page 8</p> <p>1 year ago. 2 Q. And I take it the same answer, you 3 haven't spoken to George Vallone (phonetic) 4 about this matter? 5 A. That's correct. 6 Q. How about Greg Liss (phonetic)? 7 A. Greg certainly more recently than 8 that. 9 Q. Okay. And just so we're clear, I 10 want to separate any business discussions you 11 may have had about the property or development 12 from the litigation, the court case. 13 A. I understand. 14 Q. Okay. How about your father? 15 A. No. I mean, again, my dad I see 16 every day. Did we have a discussion about 17 this? 18 Q. And I'm talking about a discussion 19 of substance, not I'm going to spend a happy 20 Friday afternoon with lawyers comment. 21 A. Not at all. 22 Q. Okay. Fair enough. Have you 23 reviewed any of the court papers in this case, 24 the complaint, the answer, any of those 25 documents?</p>

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<p>Ackman - Direct Page 9</p> <p>1 A. Not that I can remember. 2 Q. Just to belabor the obvious, I 3 started with it, but you understand that in 4 this case Texas Eastern has sued Coles Jersey 5 Development and a piece of property under, you 6 know, technical rules to confirm certain 7 property interests and address any 8 compensation, if appropriate, that may be at 9 issue. 10 A. Yes. 11 Q. You understand that? Okay. 12 Do you understand that the focus in 13 this case is a particular slice of what we 14 referred to earlier as the Coles Jersey 15 property? 16 A. Yes. 17 Q. Block 605, 6005 Lot 7. I don't 18 know if you know that. 19 A. I'll take your word. 20 Q. Okay. It's shown on some of the 21 drawings as the corner piece or the corner 22 slice. Is that familiar to you? 23 A. No. 24 Q. Okay. Are you aware there was a 25 prior litigation relating to the same property,</p>	<p>Ackman - Direct Page 11</p> <p>1 and/or George Vallone are members? 2 A. They have a promote interest that 3 may be through a membership interest. I'm not 4 sure exactly. 5 Q. Okay. Fair enough. And what is a 6 promote interest? 7 A. They get a piece of the profits 8 after we receive a return on the investment 9 we've made, assuming it's a successful 10 investment. 11 Q. And do you recall approximately 12 when that interest was given? 13 A. This deal came down in, like, 24 14 hours. So, we basically bought it and had a 15 handshake on eventually coming up with a 16 compensation arrangement that made sense, and 17 maybe within a few weeks of the deal closing. 18 Q. It was reduced to writing? 19 A. It was reduced to writing. 20 Q. Okay. So, go back to my earlier 21 question about Coles Jersey's claim for 22 compensation in this case. Do you have an 23 understanding as to what -- not specifically, 24 but generally that claim relates to? 25 A. Yeah. Basic understanding is that</p>
<p>Ackman - Direct Page 10</p> <p>1 the property that Coles Jersey purchased from 2 Ogden through Hoboken Brownstone and Danny Ganz 3 and his partner? 4 A. Litigation since we've owned the 5 property? 6 Q. Prior to this. No, prior to this. 7 A. No, I'm not aware. 8 Q. Okay. Do you have any 9 understanding as to what Coles Jersey's claim 10 for compensation in this case amounts to? 11 A. Coles Jersey is us. Correct? 12 Q. Yes. Let me take a step back. You 13 know what Coles Jersey is. It's an LLC -- 14 A. That owns this asset. 15 Q. That owns this asset. Correct? 16 A. Yes. 17 Q. Fair to say that at one time you 18 were the sole member? 19 A. Probably. 20 Q. Okay. Do you know who the members 21 are now? 22 A. I don't. Okay. I assume 23 affiliates would have been my father and 24 affiliates of mine. 25 Q. Okay. Do you recall if Danny Ganz</p>	<p>Ackman - Direct Page 12</p> <p>1 you condemn part of our property, and that 2 impairs, obviously, the value of the asset, and 3 reduces the number of units we can build, and 4 we're entitled to be compensated for that. 5 Q. And are you aware of a valuation of 6 that impairment or reduction in the value of 7 that asset? 8 A. I have a pretty good sense of what 9 I think it's worth. 10 Q. What is that? 11 A. We just contracted to buy the only 12 other outparcel in the property for a purchase 13 price of six and a half million dollars, and we 14 can build 55 units. So, if I just were to take 15 that number -- and, by the way, I bought it 16 because I thought it was worth more. Right? 17 So, just using that benchmark, you know, 18 probably 120,000 a unit. 19 So, depending upon how many units, 20 I think my understanding is something -- we 21 lost the right to build something like 60 22 units. And if I use that purchase price, I 23 would get about a \$7.2 million estimate of 24 impairment, depending upon where the -- you 25 know, what part of the property was condemned,</p>

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<p>Ackman - Direct Page 13</p> <p>1 that can also affect the value. If it's a 2 corner, it could be more valuable, for example. 3 Q. What is the related parcel? What's 4 the address, if you know, or the approximate 5 address? 6 A. I don't know the address, but if 7 you were to look at the property, I believe 8 there's one outparcel. 9 Q. Okay. Just for the record, what's 10 an outparcel? 11 A. So, if it's a square, and then 12 there's a piece that we don't own, we just made 13 a deal to buy that piece in the last week. 14 Q. It essentially completes the block 15 if you're looking at a site plan or a sketch? 16 A. That's correct. And, again, that 17 was the price we paid. Obviously I think it's 18 worth more than that. Otherwise I wouldn't 19 have bought it. 20 Q. Now, you said this is under 21 contract. You haven't closed yet? 22 A. That's correct. 23 Q. When did it go to contract? 24 A. Monday or Tuesday. 25 Q. Is there a closing date?</p>	<p>Ackman - Direct Page 15</p> <p>1 you have no other real estate interests in 2 Jersey City. So, once you close you'll have 3 this outparcel in Coles Jersey? 4 A. That's correct. 5 Q. And I don't want to belabor this, 6 but I need to ask a few questions. Obviously 7 Pershing Capital is your primary business? 8 A. Correct. 9 Q. Generally, why don't you give us a 10 summary of your real estate experience, as an 11 investor? 12 A. Extensive. I've been a real estate 13 investor beginning in the early '90s, and at 14 that time my real estate investments were 15 principally through an entity called Gotham 16 Partners, which was my former investment fund. 17 In the Jersey area we bought the 18 Maxwell House coffee factory, actually in 19 partnership with George Vallone and Danny Ganz. 20 So, that's how I got to know a little bit about 21 the Hudson waterfront. 22 And then I invested in a lot of 23 publicly-traded real estate companies. I've 24 been Chairman of the Board of a couple of real 25 estate companies, and I've been -- maybe three.</p>
<p>Ackman - Direct Page 14</p> <p>1 A. I think 30 days from the contract 2 signing. I think we have a 15-day due 3 diligence period. 4 Q. Are you aware of any documents, 5 appraisals, valuations that reference that per 6 unit value or anything that relates to the 7 Coles Jersey property itself? 8 A. I think we have engaged an 9 appraiser. I have not seen an appraisal. 10 Q. Okay. So, either he or she has 11 begun their work, or there's a draft, but you 12 haven't seen anything? 13 A. That's correct. 14 Q. All right. Have you heard any 15 reports? 16 A. I have not. 17 Q. Okay. So, this is based on your 18 experience, the numbers you're giving us for 19 the per unit price? 20 A. No, it's based on my writing a 21 check. 22 Q. Well, that's what I'm getting at. 23 A. That's a pretty good indicator, I 24 would say. 25 Q. Okay. And we started earlier with</p>	<p>Ackman - Direct Page 16</p> <p>1 So, there's one called First Union 2 Real Estate Investments that I was chairman of 3 for a number of years. And then there's the 4 Howard Hughes Corporation that I'm currently 5 chairman of that's an active real estate 6 developer around the country. 7 But just so you understand my life, 8 I spent 99 percent of my business time on 9 Pershing Square, and I spend 1 percent of my 10 time on sort of personal investments. And my 11 biggest personal investments are real estate 12 related. And in that category we own, you 13 know, a lot of -- a large number of apartments 14 and some hotel assets, some land, some retail, 15 a mix of things. But I'm a very experienced 16 real estate investor. 17 Q. Do you develop? Do you build? 18 A. I don't do anything myself. 19 Q. Okay. 20 A. But we are in partnership with -- 21 our real estate team consists of my father, 22 Greg Liss, and myself. And I'm a very 23 part-time asset. It's really dad and Greg who 24 spend the bulk of time. But obviously in light 25 of the size of the internal team, everything we</p>

<p>Ackman - Direct</p> <p>Page 17</p> <p>1 do pretty much is in partnership with somebody 2 who is doing the work. But we have done a lot 3 of development. 4 Q. Okay. So, somebody, as in this 5 case, is kind of the leather on the ground, and 6 your father and Greg Liss kind of manage it 7 from an asset perspective with you? 8 A. That's correct. Yes. They'll 9 check in with me every once in a while. 10 Q. Right. Okay. What is Table 11 Management? 12 A. Table Management is a family office 13 responsible for managing my personal 14 investments. Greg is an employee of Table 15 Management. 16 Q. When approximately was it formed? 17 I mean, is it a more recent entity? 18 A. Yeah. In the last several years. 19 I don't remember exactly. 20 Q. And when you say personal assets, 21 that would be real estate and other investments 22 in assets? 23 A. Yes. Private investments and real 24 estate. 25 Q. Who are the members?</p>	<p>Ackman - Direct</p> <p>Page 19</p> <p>1 at deals or getting into deals in Hudson 2 County, Jersey? 3 A. I think it's principally Maxwell 4 House. So, in the '90s George and Danny -- oh, 5 actually, I met them in the late '80s. I 6 worked for my father at the time. He ran a 7 company called Ackman Brothers and Singer, and 8 they arranged equity and mortgage financing for 9 real estate developers. 10 And in that capacity the firm was 11 approached by George and Danny about arranging 12 financing for property in Hoboken, not Maxwell 13 House, another asset, and then the market 14 really took a downturn, but I got to know them 15 in that capacity. 16 And then a number of years later I 17 went into -- I started an investment firm, and 18 then George and Danny approached me about 19 investing in what is called the Maxwell House 20 Coffee Factory property. And we ended up 21 forming a joint venture and buying that 22 property. And we worked on that with them 23 for -- over time. 24 Q. And in the course of your work with 25 Ganz and Vallone you came to be aware of</p>
<p>Ackman - Direct</p> <p>Page 18</p> <p>1 A. I think myself, my wife. My father 2 has some interest in various things, as well as 3 Greg Liss and Andrea Markison (phonetic), who 4 sort of oversees the administrative aspects. 5 Q. You mentioned Greg Liss' role. Is 6 he actually an employee? Is he paid by Table 7 Management? 8 A. I don't remember the exact entity 9 structure, but he's paid by one of an 10 affiliated entity. 11 Q. Would you call that his primary 12 assignment, is overseeing and managing the 13 Table? 14 A. That's correct. 15 Q. And we can call it Table for short? 16 A. Yes. 17 Q. Any other employees or officers? 18 A. There are administrative and 19 accounting related support. 20 Q. So, we talked a little bit about 21 Maxwell House. What I'd like to just focus on 22 is prior to the purchase of this Jersey City 23 property, the Coles Jersey property. 24 Why don't you tell us what other 25 real estate experience you had, whether looking</p>	<p>Ackman - Direct</p> <p>Page 20</p> <p>1 Hoboken Brownstone? 2 A. Yes. That's one of their entities. 3 Q. They essentially do business as -- 4 most commonly Hoboken Brownstone? 5 A. I believe so, yes. 6 Q. Do you understand them to be the 7 principals in Hoboken Brownstone? 8 A. Yes. 9 Q. Are you aware of any other 10 principals? 11 A. No. 12 Q. So, other than Coles Jersey and 13 Maxwell House, no other deals or potential 14 deals with Mr. Ganz and Mr. Vallone? 15 A. We did one small deal, I believe, 16 in Hoboken. I don't remember the name or the 17 address. It may have been one or two, but 18 nothing material. 19 Q. Okay. How do you define "small"? 20 A. Equity investment in the several 21 million dollar category. 22 Q. Residential? 23 A. Residential. 24 Q. Let's focus back on Coles Jersey. 25 When did you first become aware of this</p>

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<p>Ackman - Direct Page 21</p> <p>1 property, for whatever reason, but presumably 2 as an investment? 3 A. So, I think a couple years, 18 4 months, 24 months before we ended up buying 5 this property, George and Danny pitched me on 6 investing in Jersey City, and this property in 7 particular. 8 Q. And obviously it's not a memory 9 test. I don't expect you to remember specific 10 dates. But if I represent to you that this 11 deal closed in early July of '13 -- 12 A. It could have been 2011, 2010, 13 something like that. 14 Q. -- kind of work back from that. 15 Okay. 16 A. A couple years before. I would say 17 18 months to three years would likely cover the 18 period, but if I had to guess, two years. 19 Q. So, they came to you? 20 A. Yes. 21 Q. And you already had a relationship, 22 as you've said? 23 A. Yes. 24 Q. What happened at that point, your 25 initial work?</p>	<p>Ackman - Direct Page 23</p> <p>1 Q. Okay. Are you aware there's a 2 building across the street called the Cast Iron 3 Lofts? 4 A. Yes. 5 Q. Was that up when you made your 6 drive-through or drive-by or tour? 7 A. It might have been under 8 construction, but, again, I'm not 100 percent 9 sure. 10 Q. Why didn't you get involved at that 11 time? 12 A. I just wasn't that interested in 13 investing in vacant land. I just didn't think 14 the timing was right. 15 Q. Is this based more on your 16 experience and kind of a conceptual look, 17 rather than looking at financials or 18 projections? 19 A. Just judgment. 20 Q. Okay. Did you have other 21 discussions about that property between that, 22 whether it's 2010-2011 period and the summer of 23 2013, when this deal closed rapidly? 24 A. Not until the summer of 2013. 25 Q. So, how did that come about? When</p>
<p>Ackman - Direct Page 22</p> <p>1 A. I told them I wasn't interested. 2 Q. Did you have an understanding, at 3 that time, that they had an interest in the 4 property, whether an option or other contract 5 right? 6 A. I don't know if they had one or 7 were close to getting one or -- I'm not sure. 8 Q. How much due diligence did you do 9 before deciding you weren't interested? 10 A. Very little. I did see the 11 property. 12 Q. You physically went out there? 13 A. I think I turned them down 14 initially, and these are fairly persistent 15 guys, and at some point they convinced me to 16 just go with them, and they drove the property 17 with me. 18 That was later. I don't remember 19 exactly when that was. But it was probably at 20 least a year before we ended up -- but I'm not 21 100 percent sure. 22 Q. Right. Let me ask you, this may 23 help you a little bit. Have you been out there 24 since? 25 A. No.</p>	<p>Ackman - Direct Page 24</p> <p>1 did you first get contacted again in connection 2 with this property? 3 A. So, George and Danny called me to 4 let me know that they had found a partner to do 5 this deal with, and that they were talking to 6 him -- actually, I might have gotten a call 7 from Bruce Menin. 8 So, I had known Bruce Menin. I'm 9 friends with him. Our kids go to the same 10 school. I know his wife. So, either he called 11 me first or George and Danny called me to tell 12 me I was going to get a call from Bruce Menin, 13 but he was looking at this deal and wanted a 14 reference on George and Danny, and I think 15 George and Danny asked if I wouldn't mind 16 taking a call from him, being a reference for 17 them. And, in fact, that's what I did. 18 Q. At that time, the initial call from 19 Bruce Menin, you said he was looking at the 20 deal. Did you have any understanding as to 21 whether there was a contract contingent or 22 otherwise, or was this earlier? Was he just 23 sort of putting his toe in the water? 24 A. I have no idea. It was more, you 25 know, I understand you worked with George and</p>

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<p>Ackman - Direct Page 25</p> <p>1 Danny, you know, a number of years ago, what do 2 you think of them, are they trustworthy, are 3 they good at what they do, that kind of thing. 4 Q. And you endorsed George and Danny? 5 A. Yes. I accurately described their 6 capabilities. 7 Q. What happened next? 8 A. About a week or so prior to when 9 they were supposed to close, I got a call from 10 George and Danny, telling me that they were 11 having some issues with Bruce, and they wanted 12 my advice on -- you know, since I knew them 13 pretty well -- how to deal with the issues they 14 were having. 15 Q. Did you understand what the issues 16 were at that point or was it more kind of a 17 character issue that -- 18 A. I think that there were some 19 misunderstandings about, you know, what -- 20 about the deal or whatever -- I didn't know the 21 particular facts. And that had caused 22 apparently Bruce to have some concern about the 23 partnership. 24 Q. And, by the way, are you familiar 25 with Crescent Hill Partners? Do you know that</p>	<p>Ackman - Direct Page 27</p> <p>1 A. I don't remember precisely my state 2 of undress, but it's possible that I was just 3 out of the shower. Are these details valuable 4 to a lawyer? 5 Q. Not particularly, no. So, as best 6 you recall, what did Mr. Menin say to you, what 7 did you say to him? 8 A. He said to my understanding you 9 know George and Danny, and I'm looking at doing 10 a deal with them. I just wanted to know what 11 you think of them, you know, what your -- 12 how you think of them as partners. I asked 13 what kind of deal. He said he's buying a piece 14 of land, so on and so forth. 15 And I told him that, you know, I've 16 known these a guys long time, that I liked 17 them, and I thought they were good guys, and I 18 thought they were very good at understanding 19 the politics and working on the approval 20 process, and environmental and all the various 21 issues involved in acquiring land in Hudson 22 County. 23 I said I was less confident in 24 their ability to do, you know, a major 25 high-rise development. I thought what he was</p>
<p>Ackman - Direct Page 26</p> <p>1 to be one of Bruce's companies? 2 A. I thought it was Crescent Heights. 3 Maybe I'm wrong. 4 Q. Oh, I'm sorry. It is. 5 A. I know Bruce. I don't really 6 know -- I know he's done a lot of development. 7 Q. Right. You haven't done any deals 8 with him? 9 A. I have not. 10 Q. So, again, just to go back to your 11 call to Mr. Menin after Dan and George asked 12 you to make the call -- 13 A. No, no. Bruce called me. 14 Q. Oh, he called you. I'm sorry. 15 A. Yes. And I'm not sure if George 16 and Danny told me to expect a call from him or 17 not, but I did get a call from Bruce one day. 18 I remember where I was at the time. 19 Q. Where were you? 20 A. I was in our bathroom here. I just 21 finished my workout, and he called me on my 22 cell phone. So, that was a memorable spot to 23 take a call from him. 24 Q. Not the first or last, but it was 25 memorable.</p>	<p>Ackman - Direct Page 28</p> <p>1 looking for was a partner to buy a piece of 2 land with who could navigate the politics, take 3 the property for approval, maximize the zoning. 4 I thought they would be very good. 5 Q. Did you understand, at that point, 6 Mr. Ackman, that that was the Coles Jersey 7 property that you looked at some years before? 8 A. I don't think so. I'm not sure. 9 Q. It didn't get to that level of 10 particularity? 11 A. He didn't even mention the 12 property. 13 Q. Other than knowing it was in Jersey 14 City? 15 A. Right. 16 Q. He didn't get into the particulars 17 of the project? 18 A. Pretty much everything George and 19 Danny have done has been either in Hoboken or 20 Jersey City or somewhere on the shore there. 21 And it was about a property in -- I think he 22 said it was a Jersey City deal. I thought 23 their skill set was well-suited to it. 24 Q. What happened next? 25 A. Like Thursday or Friday before, I</p>

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<p>Ackman - Direct Page 29</p> <p>1 believe, the Monday deal was supposed to close 2 or some kind of time frame like that, I got a 3 call from George and Danny saying -- oh, I'm 4 sorry. George then called me, as I mentioned, 5 and told me they were having issues. This is 6 probably a month or two after I had originally 7 spoken to Bruce. And he asked for my advice on 8 how to deal with Bruce because he was concerned 9 that they were supposed to close in a 10 relatively short period of time, and that Bruce 11 was having cold feet about going forward. 12 Q. Did George say anything more 13 particular about the cause of the cold feet or 14 any issues in the project? 15 A. So, I asked him what the issues 16 were, and he said, look, you know what, there 17 have been some issues that have come up since 18 closing that they feel that we haven't 19 adequately disclosed to them, and it's causing, 20 like, a loss of trust. He asked me how I 21 thought he should handle it. 22 Q. What happened next? 23 A. I gave him advice. Would you like 24 to know the advice? 25 Q. Yes.</p>	<p>Ackman - Direct Page 31</p> <p>1 completion of that call with Mr. Vallone, did 2 you have any sense of particular issues, 3 whether they're title, environmental, economic, 4 or otherwise? 5 A. No. 6 Q. Okay. Did there come a point where 7 you learned what at least some of the issues 8 were? 9 A. Yes. 10 Q. How? 11 A. Yesterday. I read a document -- 12 Q. When you read the documents 13 produced in this litigation to us? 14 A. That's correct. Which is what 15 refreshed my recollection I had given advice to 16 write a letter. 17 Q. Having refreshed your memory, you 18 don't recall that you were already going to see 19 Bruce socially, whether at a barbecue or 20 otherwise? 21 A. I think it was July 4th weekend or 22 around that time, and I might have, you know, 23 said to George and Danny that I'm going to see 24 him this weekend and I'll put in a good word 25 for you, whatever. And, in fact, I did do</p>
<p>Ackman - Direct Page 30</p> <p>1 A. I said you should make a list of 2 all the various issues, write him a detailed 3 letter explaining what the facts are. I told 4 him that he's a very fact-based guy. And 5 explain where the misunderstanding had come 6 from. And then follow it up with a call or an 7 e-mail. 8 Q. Okay. One thing maybe we can do to 9 move this along is, you know, you recall having 10 some discussions over the weekend at the 11 barbecue with Mr. Menin. I'm just trying to 12 fix days to get a sense of the timeline. If 13 not, we'll take it brick-by-brick. 14 A. I had a barbecue with Bruce Menin. 15 I didn't realize it was in the midst of this 16 deal. 17 Q. Okay. Let me take a step back. 18 We'll try to refresh your memory as best we 19 can. 20 So, after you give the advice to 21 George -- for George and Danny, what happens 22 next, as far as you know? 23 A. He wrote a letter to Bruce and took 24 my advice. 25 Q. Now, prior to that call or the</p>	<p>Ackman - Direct Page 32</p> <p>1 that. 2 Q. And, again, if it helps, I'll 3 represent this. If it doesn't, ignore it. 4 A. I'm not sure that was the weekend, 5 you know -- 6 Q. Right. That's what I'm about to 7 say. The weekend in which you -- we understand 8 from other sources, but it's your memory that's 9 at issue today, your best recollection, the 10 weekend on which you saw Mr. Menin was the 11 weekend before the 4th, which was the following 12 weekend. 13 A. Okay. You know, I don't know for 14 sure. 15 (WA-2 marked for identification.) 16 Q. The court reporter has marked a 17 memorandum dated June 29, 2013, four pages, 18 which you now have in front of you. Take a 19 moment to look at it, but the question will be 20 do you recognize it? 21 A. Yes. 22 Q. What do you recognize it to be? 23 A. This is a letter that I looked at 24 yesterday that was, in effect, the letter that 25 I had recommended that George write to Bruce,</p>

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<p>Ackman - Direct Page 33</p> <p>1 summarizing, you know, whatever the issues were 2 that created the relationship problem. 3 Q. And do you have any recollection of 4 seeing this letter memo before yesterday? 5 A. No. 6 Q. Just for the record, there's some 7 handwriting that was put on in our office. 8 Ignore that at the bottom. That just ties into 9 another deposition. 10 And the stamp at the bottom, 11 Ackman 00006, references that it was produced 12 in this case under your -- from your lawyers on 13 your behalf. 14 A. Yes. 15 Q. Let me ask you to take a look at 16 the second line of that memo. 17 A. Okay. When you say "second line," 18 you mean where? 19 Q. Under the subject, first full 20 paragraph. 21 A. Yes. 22 Q. "When you told us that there was a 23 perceived issue with our integrity and 24 honesty." 25 Do you recall those discussions?</p>	<p>Ackman - Direct Page 35</p> <p>1 prior deposition that apparently these were 2 blind copied, but when we produced them, 3 Microsoft decided to wipe the bcc. 4 THE WITNESS: Well, the bcc never 5 shows up on an e-mail. That's why it's blind. 6 Q. So, you recall that in realtime you 7 were being blind copied on anything? 8 A. No. 9 Q. In the 1 percent of your time you 10 devote to other assets, you get such things? 11 A. I mean, first of all, I get so many 12 e-mails, that if you ever want to reach me, you 13 should not send me an e-mail. You should call. 14 So, that's one piece of advice. 15 And if it relates to -- again, I 16 outsource this stuff to my father and to Greg, 17 and this wasn't even a deal that I was involved 18 with. 19 Look, I think of George and Danny 20 as friends, and I was trying to help them. 21 This was an important deal to them. And Bruce 22 is a friend of mine. So, I was the original 23 reference between the two parties, and so I was 24 just trying to help them get their deal done. 25 Q. There comes a time where you do</p>
<p>Ackman - Direct Page 34</p> <p>1 Is that what you were referring to earlier when 2 you said Mr. Menin wanted to check in on Danny 3 and George in some fashion? 4 A. Yes. Basically that some issues 5 arose that were unanticipated by Bruce, as I 6 understand it, but -- and that had made him, 7 you know, have some concern about George and 8 Danny as potential partners. 9 Q. And as you said earlier, this deal 10 ended up closing essentially in 24 hours, your 11 part of the deal? 12 A. Almost. A day or two. It was 13 pretty quick. 14 Q. Right. And quite soon after this 15 memo was prepared? 16 A. Certainly, yes. 17 Q. Do you recall at the time were 18 either Mr. Ganz or Mr. Vallone or both copying 19 you on documents with Mr. Menin, were they 20 blind copying you? Do you have any 21 recollection of that process? 22 A. I believe my lawyer told me. I 23 don't know if I'm allowed to say that or not. 24 Q. I'll leave that to your lawyer. 25 MR. DALTON: We represented in a</p>	<p>Ackman - Direct Page 36</p> <p>1 invest in this and it becomes your asset. 2 Correct? 3 A. Yes. 4 Q. Did you outsource the review of 5 this project, the due diligence, to your father 6 and to Greg? 7 A. We didn't really have time to do 8 due diligence. I mean, what due diligence we 9 could do, they did. In fact, actually, Greg 10 felt that -- and Greg invests in pretty much 11 every deal that we've done. 12 And interestingly on this one there 13 wasn't enough time to do due diligence that he 14 wasn't willing to invest, and actually he 15 recommended strongly I not make the investment. 16 Q. We'll go over the particulars, but 17 what, if anything, did you review in connection 18 with making the final decision to invest in 19 this asset? 20 A. I just spoke to George and Danny, 21 and my dad. 22 Q. And Greg? 23 A. And Greg. And I met with George 24 and Danny. They came over and kind of made the 25 pitch. I was up and down as to whether to do</p>

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<p>Ackman - Direct Page 37</p> <p>1 it or not. 2 Q. Right. When they came over, where 3 did you meet? 4 A. In the conference room next door. 5 Q. Did you ever meet anywhere else, 6 your apartment, a restaurant, anywhere else 7 that you recall? 8 A. No, I don't think so. 9 Q. Did Mr. Menin ever ask you to 10 review any of these memos or documents or give 11 your thoughts to him on any of these issues? 12 A. No. 13 Q. If you look at the first page, 1, 14 broker commission. 15 A. Yes. 16 Q. Okay. In the second line it refers 17 to a \$22 million land cost. Do you see that? 18 A. Yes. 19 Q. There came a time where you came to 20 learn that this asset was going to cost you 21 approximately \$22 million? 22 A. I think more like 23 with the other 23 costs. 24 Q. Right. With the closing costs and 25 cushion and that sort of thing?</p>	<p>Ackman - Direct Page 39</p> <p>1 "Spectra Energy Condemnation Settlement." 2 A. Yes. 3 Q. Okay. Did you come to learn that 4 there was a Spectra Energy condemnation 5 settlement? 6 A. I read this literally a couple of 7 hours ago, but that's how I -- I have some 8 vague recollection of it, but I remember it 9 from reading this. 10 Q. Okay. So, just so we're clear, you 11 refreshed whatever memory you had a couple of 12 hours ago. You read this. 13 A. Yes. 14 Q. What vague memory of a Spectra 15 Energy condemnation settlement did you have 16 prior to reading this document earlier today? 17 A. I don't have a recollection of a 18 Spectra Energy condemnation settlement. I have 19 a recollection there was some kind of title or 20 issue that related to a pipeline that came up 21 shortly before the closing, and one of the 22 things that had to be resolved prior to the 23 funds being wired. 24 Q. At the time you closed you 25 understood there was an easement for a pipeline</p>
<p>Ackman - Direct Page 38</p> <p>1 A. Yes. 2 Q. When did you learn that? 3 A. Shortly before the closing. 4 Q. Okay. And we'll get to that. You 5 were asked to wire money. You got it on short 6 notice. Right? 7 A. Very. This is sort of a first for 8 me. I haven't bought a piece of real estate on 9 24-hour notice before. 10 Q. It's one of my questions. Have you 11 bought one without a written agreement, a land 12 purchase agreement? 13 A. I don't think so. It's fun. 14 Q. How did you become aware of the 15 cost, other than a "please send me a lot of 16 money" request? 17 A. No, no. George told me what the 18 approximate cost was. I didn't know the exact 19 cost until I got wiring instructions. 20 Q. And that was in one of the meetings 21 you had either in this conference room or -- 22 A. Yes. I mean, basically we're 23 taking over Bruce's deal. 24 Q. Let me ask you to look at the 25 second page. There's a caption in bold</p>	<p>Ackman - Direct Page 40</p> <p>1 either adjacent to or under the property. 2 Correct? 3 A. I believe so, yes. 4 Q. That somehow impaired the asset? 5 A. That's right. 6 Q. Okay. Did you come to learn that 7 there had been any litigation over that 8 impairment, that easement, whether a valuation 9 or construction of the technical easement or 10 anything else? 11 A. Other than this litigation? 12 Q. Yes. Prior to this. 13 A. No, I was not aware of that. 14 Q. I'm talking in the time in which 15 the deal closed and it became your asset? 16 A. No. 17 Q. Okay. Did you ever see the 18 purchase and sale agreement for the prior 19 contingent buyer with either Ogden or anything 20 that Bruce Menin -- Bruce Menin's team put 21 together? 22 A. You know, I literally did no due 23 diligence on this property. We just didn't 24 have the time. And I'm just not the person who 25 does due diligence.</p>

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<p>Ackman - Direct Page 41</p> <p>1 Q. Understood.</p> <p>2 A. The person who would have done the</p> <p>3 due diligence didn't do the due diligence</p> <p>4 either.</p> <p>5 Q. And that's Greg Liss, and perhaps</p> <p>6 with your father's input?</p> <p>7 A. That's right.</p> <p>8 Q. Okay. It would be no one else?</p> <p>9 A. That's correct.</p> <p>10 Q. And to your knowledge they didn't</p> <p>11 have a packet of materials, however thin or</p> <p>12 thick, that --</p> <p>13 A. I'm sure they got whatever they</p> <p>14 could get, but this was -- I mean, Greg thought</p> <p>15 I was crazy is really what it came down to.</p> <p>16 You know, I never even contemplated making the</p> <p>17 investment, and I was really helping George and</p> <p>18 Danny get Bruce to make the investment, and</p> <p>19 that at the absolute eleventh hour I got a call</p> <p>20 from George and Danny saying that Bruce had</p> <p>21 dropped out, and that they were very excited</p> <p>22 about the deal, and would I consider it.</p> <p>23 Q. You mentioned that at closing you</p> <p>24 became aware there was some kind of issue,</p> <p>25 title or otherwise, with respect to a pipeline?</p>	<p>Ackman - Direct Page 43</p> <p>1 like you said, about a potential --</p> <p>2 A. I mean, accept the following: I</p> <p>3 had turned this deal down a couple of years</p> <p>4 prior. The next time I heard about it was when</p> <p>5 Bruce called me to find out about George and</p> <p>6 Danny, and then George and Danny confirmed that</p> <p>7 this was this asset. I learned that at some</p> <p>8 point in time.</p> <p>9 And then I was sort of coaching</p> <p>10 them, in some sense, on how to deal with Bruce,</p> <p>11 who is a good guy, who I like, and I like</p> <p>12 George and Danny, and I thought they'd be a</p> <p>13 good partnership. I really had no personal</p> <p>14 interest in the deal.</p> <p>15 When it ultimately dropped out,</p> <p>16 George and Danny asked if they could come see</p> <p>17 me to pitch me on investing the night before</p> <p>18 this thing was supposed to close. And I took</p> <p>19 the meeting. And they're good salespeople.</p> <p>20 And I like them, and I trust them.</p> <p>21 And, you know, on a back of the envelope basis</p> <p>22 I thought it was very cheap, and the timing was</p> <p>23 good. And so, I said I would make the</p> <p>24 investment, and I handed it off to Greg, my</p> <p>25 dad, and our outside lawyer.</p>
<p>Ackman - Direct Page 42</p> <p>1 A. I know that one of the issues that</p> <p>2 had to be resolved before this thing closed,</p> <p>3 there were some open title issue as to whether</p> <p>4 the title company would insure around it or</p> <p>5 not, and I was reminded of that by reading the</p> <p>6 papers this morning. But my understanding is</p> <p>7 it was resolved and once it was resolved, we</p> <p>8 sent the money.</p> <p>9 Q. Did you come to learn that it was</p> <p>10 material to the pipeline company that the issue</p> <p>11 be resolved?</p> <p>12 A. I have no idea.</p> <p>13 Q. Either with you or with Ogden or</p> <p>14 with anyone else?</p> <p>15 A. No idea.</p> <p>16 Q. Did you ever have any discussions,</p> <p>17 prior to closing, regarding how any settlement</p> <p>18 proceeds between the pipeline company and the</p> <p>19 potential buyer that preceded you would</p> <p>20 allocate those settlement proceeds?</p> <p>21 A. No idea.</p> <p>22 Q. Did you come to learn there was a</p> <p>23 settlement of some sort?</p> <p>24 A. Not until I read this stuff.</p> <p>25 Q. All right. Not a vague memory,</p>	<p>Ackman - Direct Page 44</p> <p>1 And then once the issues were</p> <p>2 resolved, as far as, you know, whatever closing</p> <p>3 issues had to be resolved, I agreed to wire the</p> <p>4 money. And there wasn't even a contract.</p> <p>5 Q. And the meeting you took, is that</p> <p>6 the meeting you said in an adjacent conference</p> <p>7 room?</p> <p>8 A. That's correct.</p> <p>9 Q. All right. Did you ever meet at</p> <p>10 your apartment?</p> <p>11 A. You know, it could have been at my</p> <p>12 apartment.</p> <p>13 Q. Do you recall one meeting, two</p> <p>14 meetings?</p> <p>15 A. Now that you mention it, it might</p> <p>16 have been pretty late, and it might have been</p> <p>17 at home. I think they might have come to my</p> <p>18 house or maybe we started the meeting here and</p> <p>19 went to my house. I don't even remember</p> <p>20 exactly. But we had a meeting in the evening</p> <p>21 to go over this.</p> <p>22 Q. All right. How many face-to-face</p> <p>23 meetings do you recall with George or Danny or</p> <p>24 both prior to wiring the money?</p> <p>25 A. One.</p>

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<p>Ackman - Direct Page 45</p> <p>1 Q. If you could turn, please, to page 2 3, No. 3 in bold, "Title Insurance Problem." 3 And I'd like to just focus you on the short 4 second paragraph in that section. 5 "Notwithstanding any of that, we 6 tried to convince you yesterday that even if we 7 lost that 3,300 foot piece, it would cost just 8 255,000 of the 1.79 million credit off the 9 purchase price we had gotten from the Spectra 10 settlement, and just 15 units of density on a 11 1,000 unit project." 12 Do you ever recall reading that? 13 A. I mean, I read it this morning. 14 Q. Other than this morning. 15 A. That's correct. 16 Q. Okay. Do you know what that 3,300 17 foot piece is? 18 A. I assume it's about -- what this 19 litigation is about, but I'm not sure. 20 Q. The corner piece, Lot 7? 21 A. Yes. 22 Q. But you're not sure? 23 A. That's right. 24 Q. Did anyone ever tell you that the 25 title issue or the additional easement rights</p>	<p>Ackman - Direct Page 47</p> <p>1 A. That's correct. 2 Q. Okay. No more? 3 A. They called me to tell me the deal 4 had fallen through, and they said they wanted 5 to come see me right away to see if I would 6 step into the deal. 7 Q. Okay. And the best you know or 8 recall, did they themselves actually meet with 9 Greg and/or your father? 10 A. I don't think Greg -- I don't 11 remember who else was in the meeting. They may 12 have just come to see me at my house, my 13 apartment. 14 (WA-3 marked for identification.) 15 Q. Okay. Mr. Ackman, the court 16 reporter has handed you what's been marked 17 WA-3, which is a memo dated June 30, the day 18 after the document we were just looking at, 19 again, from Mr. Vallone and Mr. Ganz to 20 Mr. Menin. 21 This was produced on your behalf. 22 Other than seeing it today, do you recall 23 seeing this document? 24 A. Actually, I didn't see it today. 25 Q. You did not?</p>
<p>Ackman - Direct Page 46</p> <p>1 that were still in question would cost 15 units 2 on the overall project, or something in that 3 ballpark? 4 A. No. 5 Q. You gave us a number earlier as to 6 your estimate based on your having written a 7 recent check. Has anyone ever, other than 8 that, come up with any estimate as to the loss 9 of units that might be caused by this easement? 10 A. Yeah. My understanding is loss of 11 units is something in the order of 60-odd 12 units. I don't know that for sure. 13 Q. And what's the basis for that, the 14 60 number; if you recall? Where did you hear 15 it? Where did you see it? 16 A. Either Greg -- I think Greg or my 17 father told me. 18 Q. Do you recall any discussions with 19 anyone prior to closing that -- 20 A. To save you a lot of time, I didn't 21 speak to anyone prior to closing except for 22 Danny, George, Greg or my father. So, that's 23 the universe. 24 Q. And you recall one meeting with 25 Danny and/or George?</p>	<p>Ackman - Direct Page 48</p> <p>1 A. So, I may have missed this in 2 production. 3 Q. All right. Just so we're clear, 4 you didn't see it today. Have you seen it at 5 any point? 6 A. I have not. 7 Q. Have you discussed it with anyone, 8 as far as you know? 9 A. I didn't know it existed. It would 10 be hard to discuss it. 11 Q. I'd like to direct your attention 12 to the very first paragraph, the second 13 sentence. 14 "You indicated that if we can get 15 the title company to agree to insure over Lot 16 No. 7 (which is the strip of land on the 17 western edge of the property that has been 18 causing the title problem) that you will escrow 19 the balance of the closing proceeds." 20 Is that consistent with what you 21 recall, that there was some kind of title 22 issue, insurance -- 23 A. I did not know anything like this 24 kind of detail. My understanding, there was 25 some kind of title thing that was holding the</p>

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<p>Ackman - Direct Page 49</p> <p>1 deal up, and that had to be resolved before it 2 closed. Once it was resolved, we sent the 3 money. 4 Q. That's as far as it got, as far as 5 you know? 6 A. That's all I know. 7 (WA-4 marked for identification.) 8 Q. You've been handed WA-4, 9 Mr. Ackman, and it's a memo, June 30, same day, 10 from Mr. Ganz to Mr. Menin and Mr. Vallone. It 11 includes the earlier memo, and I just want to 12 focus you quickly on the line at the top. 13 "We just heard back from Ray. " 14 Did you ever become aware there was 15 a Ray involved in the deal? 16 A. No. 17 Q. All right. Do you know a Ray who 18 works with Bruce Menin or with Walsh Trucking 19 or Ogden? 20 A. I don't know. 21 Q. Okay. It goes on to say that: 22 "They would allow us to close 23 tomorrow if we'd walk away from our share of 24 the condemnation proceeds." 25 Did you ever become aware that as</p>	<p>Ackman - Direct Page 51</p> <p>1 A. That's right. 2 (WA-5 marked for identification.) 3 Q. Mr. Ackman, you've been handed 4 what's been marked WA-5. It's a four-page 5 document. It's essentially an e-mail string. 6 The top e-mail is from Monday, July 1, from 7 Mr. Ganz to Mr. Menin and others. 8 What I'd like to do first is if you 9 look at the second page, at the top there's an 10 e-mail that same day from Mr. Vallone to Bill 11 Ackman. 12 A. Okay. 13 Q. Okay. This came out of your 14 production. Do you recall receiving that 15 e-mail from Mr. Vallone? 16 A. I didn't recall it until I read it 17 this morning, but yes. 18 Q. Okay. You now recall it? 19 A. I mean, if you had asked me prior 20 to my reading it did you receive an e-mail, I 21 probably would have a tough time remembering, 22 but having seen it, I do now. 23 Q. Okay. Having now seen it, you 24 recall reviewing it at the time? 25 A. Yes.</p>
<p>Ackman - Direct Page 50</p> <p>1 the deal evolved that the seller was requiring 2 the buyer to give up any claim to condemnation 3 proceeds with the pipeline company? 4 A. No. 5 Q. No one ever told you that? 6 A. I don't remember, certainly. 7 Q. Did you ever participate in any 8 calls with Mr. Ganz or Vallone and Mr. Menin? 9 A. No. 10 Q. Okay. So, if there's any reference 11 to conference calls or calls between one of the 12 Vallone-Ganz team and Mr. Menin, it's safe to 13 say you did not participate? 14 A. Definitely not. I was -- again, 15 just to be clear, I was not involved in the 16 deal. I was just trying to help a couple 17 friends get through some partnership issues. 18 Q. They were all friends. Right? 19 Essentially Mr. Menin was a friend? 20 A. A friend of mine. And George and 21 Danny. I think Bruce was not a friend of 22 George and Danny. 23 Q. Understood. They were friends of 24 yours. You were trying to help both sides, 25 give them your best advice?</p>	<p>Ackman - Direct Page 52</p> <p>1 Q. All right. He specifically, in the 2 second paragraph, says: 3 "We have not heard anything 4 directly from C.H. about Walsh's demand for 5 more money." 6 Do you recall discussing that 7 concept, Walsh's demand for more money, with 8 Mr. Ganz or Mr. Vallone? 9 A. No. 10 Q. Do you understand that C.H. is 11 Crescent Heights? 12 A. I assume it is. 13 Q. Okay. And did there come a time 14 where you understood that the demand for more 15 money related to the proceeds of a condemnation 16 settlement? 17 A. A vague recollection. Again, what 18 I was focused on was what we were buying, as 19 opposed to someone else's problem. And once 20 they told us we owned the property or the title 21 issue was resolved, then I was comfortable. 22 Q. But you did understand the demand 23 for more money was in connection with the 24 closing on that asset. Not your closing, but 25 somebody's closing. Correct?</p>

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<p>Ackman - Direct Page 53</p> <p>1 A. I'm not sure that's correct. 2 Again, what I told George and Danny was once I 3 decided to the deal, that, you know, assuming 4 the lawyers sign off on everything and we get 5 good title to the property, again, we're buying 6 without a contract, we're buying without 7 anything. You know, no reps, nothing. I'm 8 okay to go forward. 9 And once they told me that we were 10 okay to go forward, I went forward. I didn't 11 get into the details of the backstory. That 12 wasn't interesting to me. What was important 13 to us was we're buying property with good 14 title. 15 Q. Now, having reviewed these 16 documents today and refreshed your memory 17 recalling at least one meeting or the meeting 18 with Mr. Ganz and Mr. Vallone, just to save a 19 little time, do you recall that they met 20 earlier with your father? 21 A. It's possible. 22 Q. Okay. You don't dispute it, but 23 you don't have a specific recollection of 24 knowing that at the time? 25 A. It's vaguely familiar.</p>	<p>Ackman - Direct Page 55</p> <p>1 Q. No purchase and sale agreement? 2 A. Nothing. 3 Q. No other terms? 4 A. Correct. 5 Q. When you met at the apartment, what 6 did you discuss? The apartment or the 7 conference room, wherever that meeting took 8 place. 9 A. They just, you know, told me why 10 this was a good deal, and, you know, really 11 encouraged me to -- you know, we had a big 12 success the last time we were partners, and it 13 was kind of a -- it was a classic sales pitch, 14 I would say. 15 Q. Just so we're clear, who was there? 16 A. I'm sure it was George, and 17 probably Danny. 18 Q. All right. Was your father there? 19 A. No. 20 Q. How about Greg Liss? 21 A. No. I think it was in my 22 apartment. I think they just came to see me. 23 They might have met with Greg and my dad 24 earlier in the day, or just my dad. I'm not 25 sure.</p>
<p>Ackman - Direct Page 54</p> <p>1 Q. Put another way: Did you discuss 2 with your father his meeting or the 3 information, if any, that he gained from 4 Mr. Ganz and Mr. Vallone? 5 A. I think what happened was I was not 6 available to meet when they came over, and 7 so -- and I was -- my dad met with them, and, 8 you know, if I'm going to invest \$22 million in 9 something, I should probably hear the story 10 myself. 11 I have a lot of respect for my 12 father, but I still wanted to take a look. And 13 so, I think they came over later that evening, 14 if that makes sense. 15 Q. Whether from your father or the 16 meeting that evening with Mr. Ganz and 17 Mr. Vallone, as you evaluated whether to take 18 this deal, you came to understand what the 19 price and the terms would be. Correct? 20 A. Yes. It wasn't much in the way of 21 terms. It was basically you wire the money 22 tomorrow and you own the property. That was 23 kind of the deal. 24 Q. All-cash deal? 25 A. All-cash deal.</p>	<p>Ackman - Direct Page 56</p> <p>1 Q. Did you review anything in paper, 2 whether documents, plans, agreements, sketches, 3 Google Maps, anything? 4 MR. SMITH: At the meeting with 5 Mr. Ganz and Mr. Vallone. 6 A. I don't really remember, but I 7 think it was more of -- 8 Q. A pitch? 9 A. -- a pitch. It was more like, you 10 know what, you bet with us before, it worked 11 out well, you know, we really need you, and I 12 fell for it, as they say. 13 Q. Do you feel as if you fell for it 14 today, as you sit here today? 15 A. I feel great about it. I feel like 16 I thought it was a good investment. I wouldn't 17 have made it if I didn't think it was a good 18 investment. 19 (WA-6 marked for identification.) 20 Q. Mr. Ackman, you've been handed 21 WA-6. It's a two-page e-mail chain. The top 22 e-mail is from you. Ackman@persq is your 23 e-mail address, your business e-mail address? 24 A. That's correct. 25 Q. And it's to Mr. Liss?</p>

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<p>Ackman - Direct Page 57</p> <p>1 A. Yes.</p> <p>2 Q. All right. And just briefly I'll</p> <p>3 see if this refreshes your memory. Look at the</p> <p>4 second page first.</p> <p>5 At the very bottom there's a</p> <p>6 message from Lawrence Ackman, that's your</p> <p>7 father, to Greg and William A. Ackman.</p> <p>8 "Bill is meeting with George and</p> <p>9 Danny and me tonight."</p> <p>10 A. I'm sorry. Where are you?</p> <p>11 Q. At the very bottom, 6:19 p.m. Do</p> <p>12 you see that?</p> <p>13 A. Okay.</p> <p>14 Q. Just take a moment and look. I</p> <p>15 just want to know if that refreshes your memory</p> <p>16 that your father and Greg had an earlier or</p> <p>17 pre-meeting with Mr. Ganz and Mr. Vallone.</p> <p>18 A. I believe they did. I'm not 100</p> <p>19 percent sure. So, what's confusing is the</p> <p>20 subject matter is "Bill is meeting with George</p> <p>21 and Danny and me tonight." So, that implies</p> <p>22 that my dad was there, but I don't remember my</p> <p>23 father at the meeting.</p> <p>24 And then the rest of it says:</p> <p>25 "They are going to present the</p>	<p>Ackman - Direct Page 59</p> <p>1 favor of it.</p> <p>2 Q. What, as best you recall, was the</p> <p>3 basis of Greg Liss' objection?</p> <p>4 A. Inadequate due diligence, and his</p> <p>5 assessment that the returns were not good</p> <p>6 enough. He made a reference here. I mean, you</p> <p>7 can just read his -- I'm happy to read it into</p> <p>8 the record if you want me to.</p> <p>9 Q. No need. And this is in the</p> <p>10 record. And for the record, just to summarize,</p> <p>11 he references what he sees as a less than</p> <p>12 extraordinary per unit return. Is that</p> <p>13 correct, just to simplify?</p> <p>14 A. I don't know about per unit, but he</p> <p>15 says he believed it would be a lesson at 20</p> <p>16 percent return, and that he'd rather invest</p> <p>17 more in Post Brothers deals, which are some</p> <p>18 apartment deals we've been doing, than do these</p> <p>19 deals.</p> <p>20 Greg, so you should know, is a very</p> <p>21 conservative guy. He's the "no" guy. It's</p> <p>22 valuable to have one of those around.</p> <p>23 Q. Okay. And do you recall anything</p> <p>24 other than that less than or approximate 20</p> <p>25 percent return objection that he raised, any</p>
<p>Ackman - Direct Page 58</p> <p>1 Jersey City deal to Bill," which implies he's</p> <p>2 not there, as a "get the site plan</p> <p>3 environmental cleanup approvals and sell all or</p> <p>4 part of the property thereafter to other</p> <p>5 developers" type deal.</p> <p>6 Q. Let me ask you if this helps. Move</p> <p>7 up to the next e-mail, which is about 40</p> <p>8 minutes later. That's from Greg to your father</p> <p>9 and you.</p> <p>10 A. Yes.</p> <p>11 Q. "Bill, first, would you like me to</p> <p>12 come tonight? I sat through the first hour of</p> <p>13 their meeting with Larry today."</p> <p>14 A. Yes.</p> <p>15 Q. So, I'm just simply asking if that</p> <p>16 helps refresh your memory as to what was</p> <p>17 reported to you.</p> <p>18 A. Well, I trust, based on this, that</p> <p>19 they met earlier, that Greg and my dad met with</p> <p>20 George and Danny.</p> <p>21 Q. Okay. Does that help refresh your</p> <p>22 memory at all as to what report, if any, you</p> <p>23 received from your father and/or Greg?</p> <p>24 A. No. I remember what advice I got.</p> <p>25 Greg was opposed to the deal. My father was in</p>	<p>Ackman - Direct Page 60</p> <p>1 other issues that Greg raised?</p> <p>2 A. His principle issue, I don't think,</p> <p>3 was the returns. He just felt like, you know,</p> <p>4 he's in a -- I don't think you could call it a</p> <p>5 fiduciary role, but he's a employee, and the</p> <p>6 risk reward to him for recommending something</p> <p>7 that he hasn't had adequate time to do his</p> <p>8 homework on is not attractive.</p> <p>9 (Recess taken.)</p> <p>10 (WA-7 marked for identification.)</p> <p>11 Q. Mr. Ackman, you've been handed a</p> <p>12 three-page document stamped Ackman 00036</p> <p>13 through 38. The first page is a July 1 e-mail</p> <p>14 from Mr. Vallone to Mr. Colletta and you. Do</p> <p>15 you recall receiving that e-mail?</p> <p>16 A. No.</p> <p>17 Q. Okay. The first line says: "This</p> <p>18 one I'm copying Bill" --</p> <p>19 A. I did see it this morning, though.</p> <p>20 Q. Okay. Right. And thank you for</p> <p>21 clarifying that. I want to know if you recall</p> <p>22 seeing it in real time.</p> <p>23 A. I don't.</p> <p>24 Q. "This one I'm copying Bill because</p> <p>25 he wanted the revised budget."</p>

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<p>Ackman - Direct Page 61</p> <p>1 Do you recall reviewing a revised 2 or a budget? 3 A. I'm sure I did. 4 Q. Okay. And then that's something 5 you would have asked for in connection with the 6 pitch from Mr. Ganz and Mr. Vallone? 7 A. For sure. 8 Q. It says: "Also attached is a site 9 survey." 10 Did you ever review a site survey 11 prior to closing? 12 A. No. I don't know if I could read 13 this. For the record, it's miniscule. 14 Q. Because it's small? 15 A. That's right. 16 Q. Not because of the form. 17 A. That's right. 18 Q. Okay. 19 A. I'm not a surveyor. Where is the 20 property that's the subject of the litigation? 21 Q. I'm sorry? 22 A. Actually, I'm curious as to where 23 this property is on the survey. 24 Q. Okay. I was going to ask you if 25 you knew.</p>	<p>Ackman - Direct Page 63</p> <p>1 A. I have no idea. 2 (WA-8 marked for identification.) 3 Q. So, Mr. Ackman, I've handed you a 4 one-page document Bates-stamped Ackman 00049. 5 At the top there's an e-mail from you to Greg 6 Liss, July 2, 2013, responding to Mr. Liss' 7 e-mail. And I'd like to read your succinct 8 response and ask you about each of those 9 points. 10 "Let's do the work we can do and 11 then we can decide." 12 I take it that references whatever 13 due diligence is possible in the short time 14 before potential closing? 15 A. I think we closed on the 3rd. 16 Correct? The morning of the 3rd. 17 Q. Yes, the next day. 18 A. So, the e-mail was July 2nd, 1:41 19 p.m. There wasn't really much time to do any 20 work. 21 Q. Right. Let's confirm the "as of 22 right zoning." What does that refer to? 23 A. What we believed the -- you know, 24 George and Danny believed we could build 1,000 25 units or some number like that. Let's make</p>
<p>Ackman - Direct Page 62</p> <p>1 A. So I know what we're fighting 2 about. 3 Q. Right. Okay. So, let me ask you 4 first. I'll flip it back at you, but I think I 5 know what the answer is going to be. 6 Do you know where the property at 7 issue here is? 8 A. I do not. 9 Q. All right. I will represent to 10 you, and I don't think your counsel will 11 disagree, if you look at the shaded area about 12 two-thirds of the way up in the left corner. 13 And I'm using glasses, but it is identified as 14 Block 6005, Lot 7. 15 A. Okay. That looks very, very 16 valuable to me. That could be the most 17 valuable part of the property, by far. 18 Q. So, you're stopping at two verys or 19 do you want to add a couple of verys, just for 20 the record? I don't want to cut you off. 21 A. It's waterfront practically. 22 Q. Let me ask you, just orienting you, 23 and I'm taking a shot, can you identify where 24 the outpiece is that you're under contract to 25 purchase?</p>	<p>Ackman - Direct Page 64</p> <p>1 sure that's true. You know, without getting 2 some kind of variance to build more. 3 Q. Okay. So, you wanted someone to 4 give you -- 5 A. Worst case. 6 Q. -- a legal assessment is what's a 7 give me in terms of the zoning, how many units? 8 A. Basically, yes. 9 Q. Okay. And the final sentence says 10 "I was the aware of the" -- or the second to 11 last sentence, I'm sorry: 12 "I was aware of the environmental." 13 What does that refer to? 14 A. If you look at the previous e-mail, 15 Greg is saying -- you know, as I've said: 16 "This likely is a fine deal, but 17 there is a non-zero likelihood that there is 18 something wrong here. This is the first we've 19 heard about the \$300,000 tideland claim on the 20 title, and it's the first I'd heard there was a 21 potential million-dollar environmental cleanup 22 bill." 23 So, then above it says: 24 "I was aware of the environmental." 25 I think the environmental number</p>

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<p>Ackman - Direct Page 65</p> <p>1 cost was in the number that George and Danny 2 had given us. 3 Q. Was that environmental issue 4 resolved satisfactorily, to your knowledge? 5 A. I believe so. We got whatever the 6 work plan approved, and I think we're in the 7 process of cleaning the property now. 8 Q. All right. So, my next question 9 relates to now. Are you aware of what the 10 current state of play is with respect to any 11 environmental issues on the asset? 12 A. I know we approved an incremental 13 budget to clean up the property, and I think 14 they estimated it would get done by the end of 15 this year. 16 Q. And what's the estimated cost? 17 A. I don't remember. 18 Q. Can you ballpark a number? Six 19 figures, seven figures? 20 A. A million-ish all in, something 21 like that. 22 Q. And the final sentence: 23 "I was aware of the environmental" 24 is followed by: "That's in the cost 25 projection."</p>	<p>Ackman - Direct Page 67</p> <p>1 Q. And then the top e-mail, Tuesday 2 morning, July 2, from Greg Liss to you, copying 3 your father, I'd like to focus on your e-mail 4 to Tony Colletta? 5 A. Yes. 6 Q. It says: 7 "Tony, I know my dad reached out to 8 you on a potential deal." 9 And that's from the night before, 10 just for the record. Right? 11:49 on July 1? 11 A. Yes. 12 Q. "After reviewing the facts, I am 13 unlikely to participate, so I want to make sure 14 your team did not spend any more time." 15 What facts, as best you recall, 16 were you talking about? 17 A. Remember, this was probably the 18 night I met with George and Danny. Correct? 19 Q. It was, yes. 20 A. And I was, frankly, waffling about 21 whether or not to do this deal. And, I don't 22 know, at 11:49 at night I decided to 23 \$20 million without doing any homework, you 24 know, that might be dumb. So, I changed my 25 mind, or I decided not to go ahead.</p>
<p>Ackman - Direct Page 66</p> <p>1 A. Yes. 2 Q. Fair to say that refers to the 3 budget we looked at earlier? 4 A. Yes. 5 Q. Which you had reviewed? 6 A. That's correct. 7 Q. To refresh your recollection, if I 8 say to you that Mr. Ganz and Mr. Vallone were 9 impressed with your father's singing when you 10 all met? 11 A. Then maybe he was in my apartment 12 and he let it out. You know, my dad likes to 13 sing. It definitely would have been in my 14 apartment, though. I don't think we would have 15 had any singing going on here. There's a piano 16 in my apartment. 17 Q. Okay. What does he sing? 18 A. Showtunes, Gershwin. 19 (WA-9 marked for identification.) 20 Q. So, Mr. Ackman, you've been handed 21 WA-9, which is a one-page document with two 22 e-mails, one from you to Mr. Colletta. And, by 23 the way, for the record that's your lawyer or 24 one of your lawyers at Sullivan & Cromwell? 25 A. That's correct.</p>	<p>Ackman - Direct Page 68</p> <p>1 Q. Okay. And as we obviously have 2 discussed on the 3rd, a day, day and a half 3 later, you did, in fact, close? 4 A. Yes. 5 Q. What changed? 6 A. I called George and Danny to tell 7 them my decision. Or I called George, and then 8 George talked me back off the cliff and 9 convinced me to go forward. He's a good 10 salesman. 11 Q. I'm getting that. Did you acquire 12 any additional information after 11:49 on the 13 1st? 14 A. No. I mean, he just sort of said, 15 look, trust me. That was basically it. And I 16 happen to like the guy. 17 Q. At the time you were waffling or 18 reconsidering -- 19 A. Well, I hadn't decided. I met with 20 George and Danny, I heard them out, you know. 21 I said I would think about it and get back to 22 them. And then I was thinking about a lawyer 23 burning up hours at Sullivan & Cromwell type 24 rates overnight, and I wanted to shut that 25 down. That's why I sent the e-mail.</p>

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<p>Ackman - Direct Page 69</p> <p>1 Q. That the lawyers got right away, 2 when we all reviewed it. 3 A. And, also, I don't like people 4 staying up all night, you know, assuming that 5 they were, working on something I'm not going 6 to do. Just the human element. Forget the 7 legal fees. 8 Q. Right. Was it a factor at all in 9 your hesitation, we'll call it, that there was 10 this title issue out there? 11 A. No. 12 Q. How about the environmental issue? 13 A. No. 14 Q. How about the settlement or 15 potential settlement? 16 A. Well, to be clear, I wasn't going 17 to buy the property unless we got good title. 18 So, that's clearly an issue. 19 Q. But assuming that could be 20 resolved, that was otherwise not going to 21 affect your decision on the economic 22 investment? 23 A. That's correct. 24 Q. Was it at all a factor that there 25 was still an environmental issue?</p>	<p>Ackman - Direct Page 71</p> <p>1 "To summarize what I just told you, 2 one, I just sent the assignment document to 3 Tony of our company over to you." 4 Do you know what the assignment 5 document is? 6 A. No. 7 Q. Do you know what "our company" is? 8 A. Hoboken Brownstone, I assume, but I 9 don't know. 10 Q. "Two, earlier we signed the release 11 docs C.H. wanted, so I'm pretty sure we're good 12 with them." 13 Do you know what he's referring to 14 there? 15 A. Okay. So, I think what this is, is 16 we -- I think they wanted some of their costs 17 reimbursed in exchange for our taking over the 18 deal. 19 Q. And "they" being Crescent Heights? 20 C.H. refers to Crescent Heights? 21 A. That's right. 22 Q. Okay. Do you think the release 23 docs relate to reimbursement for certain costs? 24 A. It's possible. 25 Q. Are you speculating?</p>
<p>Ackman - Direct Page 70</p> <p>1 A. No. 2 Q. How about that there was this 3 potential or actual settlement with the 4 pipeline company? 5 A. I wasn't aware of it. 6 (WA-10 marked for identification.) 7 Q. Mr. Ackman, you've been handed 8 WA-10, which is a five-page document, pages 9 numbered 173 through 177. It's a string of 10 e-mails, starting pre-closing and ending at the 11 top on that first page with an e-mail from 12 Mr. Ganz, thanking everyone for their effort to 13 close. 14 A. Yes. 15 Q. Okay. I'd like to ask you to look 16 at page 4. Just above the middle there's an 17 e-mail from Mr. Vallone to you, Mr. Colletta, 18 your father, cc'g Ganz, O'Brien. Let me just 19 help refresh your memory. It says: 20 "Hi, Bill. It's so funny, you just 21 called me as I was typing this." 22 Do you recall speaking to 23 Mr. Vallone the day of the closing? 24 A. No. 25 Q. He says:</p>	<p>Ackman - Direct Page 72</p> <p>1 A. I'm speculating. 2 Q. Okay. We don't want you to 3 speculate. So, you don't know specifically or 4 generally what the release docs -- 5 A. I would ask George, for one. 6 Q. Okay. And on the next page, about 7 the middle, there's an e-mail from Mr. Ganz as 8 the closing process proceeds. The second 9 reference he references they're looking for the 10 wire transfer. The third sentence he says: 11 "I have signed for the liability 12 insurance as closing manager." 13 Did you understand liability 14 insurance was for the Coles Jersey as the owner 15 of the asset? 16 A. I assume, but I don't know for 17 sure. 18 Q. Okay. Do you recall any 19 discussions about that? 20 A. No. 21 Q. It is true that at the closing on 22 the 3rd it was Coles Jersey that was acquiring 23 the property? 24 A. That sounds like a legal thing you 25 should ask my lawyer about.</p>

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<p>Ackman - Direct</p> <p>Page 73</p> <p>1 Q. Okay. So you're not sure?</p> <p>2 A. I just do what my lawyer tells me</p> <p>3 when it comes down to closings.</p> <p>4 Q. Who was advising you at that</p> <p>5 closing?</p> <p>6 A. Sullivan & Cromwell.</p> <p>7 Q. At that time?</p> <p>8 A. Tony Colletta.</p> <p>9 Q. You didn't attend the closing.</p> <p>10 Right?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay.</p> <p>13 A. Remember, this is not my day job.</p> <p>14 Q. Putting aside which legal entity</p> <p>15 was the acquiring entity, which I think the</p> <p>16 lawyers can find a way to agree on, if nothing</p> <p>17 else, as of the closing I think we've</p> <p>18 established earlier, you were the sole member</p> <p>19 of Coles Jersey Development?</p> <p>20 A. Yes. If that's what it's called,</p> <p>21 yes.</p> <p>22 Q. Right. Okay. And we went over who</p> <p>23 else became members at later dates. Right?</p> <p>24 A. And, again, I'm not 100 percent</p> <p>25 sure, but those are likely to be the other</p>	<p>Ackman - Direct</p> <p>Page 75</p> <p>1 A. I don't know. I guess it could all</p> <p>2 have been done over the phone, basically, by</p> <p>3 e-mail.</p> <p>4 Q. Now, at the time of the closing did</p> <p>5 you understand that this property was subject</p> <p>6 to an easement from the pipeline company,</p> <p>7 whatever it was called, whether it was Texas</p> <p>8 Eastern or Spectra?</p> <p>9 A. I have a recollection there was an</p> <p>10 easement for a pipeline, yes.</p> <p>11 Q. Did you understand that the seller,</p> <p>12 at that point, Ogden -- did you know the seller</p> <p>13 was Ogden?</p> <p>14 A. No. The name is familiar.</p> <p>15 Q. Did you have an understanding as to</p> <p>16 who the seller was?</p> <p>17 A. No. I mean, there's Walsh</p> <p>18 Trucking, there's Ogden. I'm not sure who did</p> <p>19 what to whom.</p> <p>20 Q. Okay. It's not a gotcha. You</p> <p>21 associate Ogden, though, with this deal?</p> <p>22 A. Yes.</p> <p>23 Q. Did you have an understanding that</p> <p>24 Ogden had been in litigation with the pipeline</p> <p>25 company prior to the closing?</p>
<p>Ackman - Direct</p> <p>Page 74</p> <p>1 members.</p> <p>2 Q. Right. And there would be records</p> <p>3 to confirm that?</p> <p>4 A. Yes, there would be.</p> <p>5 Q. You didn't attend the closing. Who</p> <p>6 attended the closing; if you know?</p> <p>7 A. I believe Danny Ganz.</p> <p>8 Q. All right. Anyone else?</p> <p>9 A. Lawyers? I don't know.</p> <p>10 MR. DALTON: Do you mean on behalf</p> <p>11 of Coles Jersey?</p> <p>12 MR. SMITH: Yeah, let me make it</p> <p>13 clear.</p> <p>14 Q. Obviously there was a seller and</p> <p>15 there was a purchaser. We'll leave open the</p> <p>16 precise name of the purchaser, but do you know</p> <p>17 who attended for the seller? Did anybody ever</p> <p>18 report to you? Do you have any understanding?</p> <p>19 A. No.</p> <p>20 Q. Okay. Who attended for the</p> <p>21 purchaser?</p> <p>22 A. Danny Ganz was our representative.</p> <p>23 I assume the Sullivan lawyers, someone would</p> <p>24 have been there.</p> <p>25 Q. You don't know?</p>	<p>Ackman - Direct</p> <p>Page 76</p> <p>1 A. No. You've been suggesting that</p> <p>2 over the course of this conversation, but I</p> <p>3 wasn't aware of it then. In my mind that's all</p> <p>4 business. Right? I was just focused on are we</p> <p>5 getting clean title, what are we paying. That</p> <p>6 would have absorbed my focus.</p> <p>7 Q. So, same focus July 3rd of '13,</p> <p>8 which you've heard, looking at papers or</p> <p>9 talking to your lawyer --</p> <p>10 A. All I wanted to know was are we</p> <p>11 getting clean title to the property. I mean,</p> <p>12 there was nothing else we were getting. There</p> <p>13 are no reps, there are no warranties, there's</p> <p>14 no contract. So, it was just, you know, I'll</p> <p>15 give you the money if you give me the property.</p> <p>16 That was it.</p> <p>17 Q. Did you have any understanding, at</p> <p>18 that time, again, July 3rd, that Ogden had</p> <p>19 engaged in any kind of settlement with the</p> <p>20 pipeline company?</p> <p>21 A. I did not.</p> <p>22 Q. Did you have any understanding that</p> <p>23 Mr. Ganz and/or Mr. Vallone, either</p> <p>24 individually or as Hoboken, had engaged in any</p> <p>25 settlement with the pipeline company?</p>

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<p>Ackman - Direct Page 77</p> <p>1 A. Not that I'm aware of. 2 Q. Did you have any understanding that 3 the seller, Ogden, or otherwise, had made it a 4 condition of the sale that the buyer give up 5 any claim to the settlement proceeds? 6 A. No. 7 Q. Did you understand at 8 closing that -- 9 A. I did read something to that effect 10 in the documents I read this morning. 11 Q. This morning? 12 A. That's correct. 13 Q. When we were talking about July of 14 '13? 15 A. That's correct. 16 Q. Okay. 17 A. You know, I actually didn't even 18 realize you could sort of do a deal without a 19 contract. And my lawyer told me, make sure you 20 get good title. If you got good title I'll 21 tell you, you can wire the money. That's what 22 I knew. So, I can save you a lot of questions. 23 Q. Did you understand that without 24 being able to find it on a site plan or a 25 drawing, that the purchase included that</p>	<p>Ackman - Direct Page 79</p> <p>1 company needed to put their pipe through the 2 property. I did become aware of that, yes. 3 Q. And did you come to learn that that 4 dispute was resolved? 5 A. No. If it was resolved, why are we 6 here? 7 Q. Good question. Well, there's two 8 components. Did you come to understand that 9 the pipeline company's right to the easement 10 was confirmed by a representative of yours or 11 Coles Jersey's? 12 A. No. 13 Q. There's two components, the 14 easement and the valuation. 15 A. Okay. Now you're above my head. 16 Q. Okay. So you never understood 17 those as two pieces of a small puzzle -- 18 A. That's right. 19 Q. -- or any other formula? Okay. 20 A. I'm the high level guy in this 21 deal. There are other people who knew more 22 than I. 23 Q. And to the extent there were 24 day-to-day issues that might relate to things 25 like what's the way to perfect an easement,</p>
<p>Ackman - Direct Page 78</p> <p>1 additional bit of property where there had been 2 some question about title? 3 A. My understanding was there was a 4 question about title. You know, I told George 5 and Danny I was not going to go forward unless 6 it was resolved. They resolved it. It was 7 resolved. 8 Once it was confirmed it was 9 resolved, you know, the title company was 10 prepared to give us an insurance policy. I 11 went forward. 12 Q. All right. Stated differently, did 13 you understand that that issue related 14 specifically to this Lot 7 that we've been 15 talking about? 16 A. I did not. 17 Q. After the closing, in approximately 18 the early fall of '13, do you recall any 19 discussions with Mr. Ganz or Mr. Vallone or 20 anyone else about needing to reach some kind of 21 agreement with the pipeline company? 22 A. I don't know about needing to reach 23 an agreement with the pipeline company, but my 24 father made me aware there was a dispute over a 25 portion of the property that the pipeline</p>	<p>Ackman - Direct Page 80</p> <p>1 would that be your father, Greg? Who would 2 have been involved? 3 A. Probably our lawyers. 4 Q. Okay. And other than lawyers, who 5 on the Table team, to call it that -- 6 A. It could have been my dad or it 7 could be Greg. 8 Q. Okay. I'll try to go quickly 9 through this because I think we've touched on 10 this, but just in terms of the current status 11 of the project, you have said you had a 12 contract to purchase the outpiece? 13 A. That's correct. 14 Q. Any other pending or potential 15 transactions in Jersey City at this time? 16 A. We're seeking an upzoning of the 17 property. 18 Q. Of the Coles property? 19 A. Yes. 20 Q. Okay. 21 A. So, we got the as-of-right 22 approval. It's to sort of protect our 23 downside. And we believe there is community 24 support and political support for an upzoning 25 of the property that would approximately double</p>

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<p>Ackman - Direct Page 81</p> <p>1 the buildable unit volume. That's why we're -- 2 I was prepared to pay six and a half million 3 dollars for that piece of property, because if 4 we can double the approval, we can more than 5 double the value of that piece of property. 6 Q. And is this upzoning -- as you 7 understand it, does it cover both the outpiece 8 and the Coles Jersey piece? 9 A. Yes. 10 Q. Okay. As a unified piece? 11 A. Yes. I think very soon there's a 12 community board meeting about this. And I 13 think initially it only covers the part we own, 14 because we have not yet closed on the new 15 piece. But I think once we close on the new 16 piece we'd probably submit it, obviously, for 17 the whole block. 18 Q. Right. But it's your understanding 19 you can amend and bring that into some kind of 20 singular package? 21 A. It's not my understanding, but I 22 assume that that's the case. 23 Q. Okay. All right. So, with the 24 hearing upcoming there is something filed at 25 this point, as far as you know?</p>	<p>Ackman - Direct Page 83</p> <p>1 upzoning before we consider any of those 2 alternatives. 3 Q. I assume. But you're telling me 4 consistent with what we discussed before, to 5 the extent this asset is being managed, it's 6 being managed by your father and/or Greg Liss? 7 A. I mean, George and Danny, of 8 course. 9 Q. And George and Danny. 10 A. Here it's being overseen by my 11 father and Greg Liss. 12 (WA-11 marked for identification.) 13 Q. Mr. Ackman, you've been handed 14 what's marked WA-11. It's stamped DG 00388 and 15 389. Have you ever seen this before? 16 A. I don't think so. 17 Q. It purports to be a breakup of a 18 settlement. And I'll represent to you that 19 we've been told relating to the property at 20 issue here. 21 Under final settlement there's a 22 reference to "corner." Does that mean anything 23 to you? 24 A. No. 25 Q. And just to be clear, you said a</p>
<p>Ackman - Direct Page 82</p> <p>1 A. I don't know the answer to that. 2 Q. Any other approvals that are 3 contemplated? 4 A. No. My understanding is we have an 5 as-of-right fully approved shovel-ready project 6 for approaching 900 units, which we could start 7 building the beginning of the year, but in 8 light of the fact there's interest in an 9 upzoning, we're going to pursue that before we 10 decide to build the project. 11 Q. Do you have any agreements or 12 options or discussions concerning selling the 13 property at this point? 14 A. No. 15 Q. Is it your plan to sell it or to 16 build? 17 A. The answer is we're open-minded. 18 We're certainly not going to build it 19 ourselves. So, we would either joint venture 20 it with a builder, sell the whole thing, or 21 somewhere in between. You know, maybe keep 22 some, sell some, sell a block, sell the whole 23 thing. 24 But I think we want to figure 25 out -- you know, obviously we want to get this</p>	<p>Ackman - Direct Page 84</p> <p>1 moment ago you don't recall seeing this 2 particular document. Do you recall seeing data 3 in some form breaking out or allocating a 4 settlement in connection with this property? 5 A. No. 6 Q. Do you recall any discussions along 7 the same subject matter, breaking out a 8 settlement and allocating proceeds? 9 A. No. 10 (WA-12 marked for identification.) 11 (WA-13 marked for identification.) 12 Q. Mr. Ackman, you've been handed two 13 documents. WA-12 is a four page document. The 14 front page is a closing report that references 15 Coles Jersey Development/Ogden Realty real 16 estate transaction. And WA-13 is a single page 17 document captioned "Release." 18 I'm just going to ask you first, 19 look at each and please tell me, one by one, if 20 you've seen these before. 21 A. I have not seen WA-12. And I have 22 not seen WA-13. 23 Q. Are you aware that there is an 24 index of closing documents in connection with 25 the Coles Jersey deal?</p>

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<p>Ackman - Direct Page 85</p> <p>1 A. No. I hope there is. I have not 2 seen it. 3 Q. Okay. You obviously haven't 4 reviewed it? 5 A. I have not. 6 Q. Has anyone mentioned anything about 7 it to you -- 8 A. No. 9 Q. -- about any of the agreements or 10 other documents that are in there? 11 A. No. 12 Q. All right. As anyone ever 13 discussed with you that in connection with the 14 closing there was an assignment of licenses, 15 permits, contracts, and other intangible 16 property? 17 A. No. 18 Q. Has anyone ever discussed with you, 19 or are you aware that someone on behalf of 20 Coles Jersey Development entered into such an 21 assignment with the seller, Ogden? 22 A. No. 23 Q. Are you familiar with Dan Ganz's 24 signature? 25 A. No.</p>	<p>Page 87</p> <p>1 C E R T I F I C A T E 2 3 I CERTIFY that the foregoing 4 is a true and accurate transcript of the 5 testimony as taken by and before me 6 stenographically at the time and place 7 aforementioned. 8 I FURTHER CERTIFY that I am 9 neither attorney for nor counsel to any of 10 the parties; parties of any of the attorneys 11 in this action; and that I am not 12 financially interested in the outcome of 13 this case. 14 15 16 17 18 19 JOMANNA DEROSA, C.C.R. 20 21 22 23 24 25</p>
<p>Ackman - Direct Page 86</p> <p>1 Q. Has anyone ever discussed with you 2 that there was any release given in connection 3 with the closing of any proceeds relating to a 4 settlement with the pipeline company? 5 A. No. 6 Q. Have you ever become aware, other 7 than this moment, from what you might glean 8 from seeing this document? 9 You've never seen these before? 10 You didn't see these even this morning. 11 Correct? 12 A. That's correct. 13 MR. SMITH: Okay. I have nothing 14 further. Thank you. 15 (Time Ended: 3:39 p.m.) 16 (Exhibits retained by Reporter.) 17 18 19 20 21 22 23 24 25</p>	

EXHIBIT 2

From: William A. Ackman <ackman@persq.com>
Sent: Monday, July 01, 2013 7:52 PM
To: Greg Lyss
Subject: Re: Bill is meeting with George and Danny and me tonight

No rush

----- Original Message -----

From: Greg Lyss
Sent: Monday, July 01, 2013 07:45 PM
To: William A. Ackman
Subject: Re: Bill is meeting with George and Danny and me tonight

I'll try to be prompt.

Greg Lyss
O - (212) 652-3186
M - (917) 756-0568

----- Original Message -----

From: William A. Ackman
Sent: Monday, July 01, 2013 07:42 PM
To: Greg Lyss
Subject: Re: Bill is meeting with George and Danny and me tonight

830

----- Original Message -----

From: Greg Lyss
Sent: Monday, July 01, 2013 07:39 PM
To: William A. Ackman
Subject: Re: Bill is meeting with George and Danny and me tonight

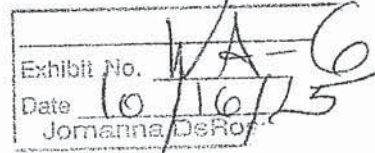
When?

Greg Lyss
O - (212) 652-3186
M - (917) 756-0568

----- Original Message -----

From: William A. Ackman
Sent: Monday, July 01, 2013 07:06 PM
To: Greg Lyss; Lawrence D. Ackman
Subject: Re: Bill is meeting with George and Danny and me tonight

Sure. We don't need to decide by tomorrow. Every other buyer will take time.



DG-25

----- Original Message -----

From: Greg Lyss
Sent: Monday, July 01, 2013 07:04 PM
To: Lawrence D. Ackman; William A. Ackman
Subject: RE: Bill is meeting with George and Danny and me tonight

Bill --

First, would you like me to come tonight? I sat through the first hour of their meeting with Larry today.

As of now, my opinion is that I would pass on this opportunity. We've been here before with this very piece of property with George and Danny on the verge of losing it. There is no time to do any due diligence, negotiate an LPA, etc... If we had some reasonable time, I might view this differently.

On the merits, I am not certain this is such an incredible opportunity that would merit jumping through the hoops of closing this in one day. As I heard George say it, the \$22mm purchase price is roughly \$22/FAR. To get to the first entitled building would be \$27mm. It is not clear how much more the costs to entitle the other two parcels would be. Let's say another \$5mm (I am using gross estimates because I have no numbers from which to work). That gives you an all in cost of \$32mm, or roughly \$32/FAR. Your father thinks this could sell for \$50/FAR. Danny said it would be worth 50%-100% more than we paid for it. At 50% higher over 3 years, it's a wash given the expenses. At 100%, it's a sub 20% return. I'd rather invest more in Post Brothers deals than do this deal under these circumstances.

Let me know about tonight.

Thank

Greg

-----Original Message-----

From: Lawrence D. Ackman
Sent: Monday, July 01, 2013 6:19 PM
To: Greg Lyss; William A. Ackman
Subject: Bill is meeting with George and Danny and me tonight

They are going to present the Jersey City deal to Bill as a "get the site plan and environmental cleanup approvals and sell all or part of the property thereafter to other developers" type deal. I think that Bill will be interested in this land speculation and therefore you should call or e-mail to him right away what your opinion is of the deal. It has to close tomorrow or George and Danny will lose the "opportunity".

EXHIBIT 3

RELEASE

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, The Hoboken Brownstone Company, its heirs, successors, predecessors, and assigns (collectively the "Company") hereby irrevocably and forever unconditionally release, remit, acquit, waive and discharge Ogden Realty Company, a New Jersey General Partnership, and Texas Eastern Transmission, LP, a Limited Partnership of the State of Delaware (both entities hereinafter collectively referred to herein as the "Released Companies"), for all causes of action, claims, counterclaims, suits, rights, demands, damages, injunctive or declaratory relief, costs, expenses, accounts, judgments, executions, debts, losses, obligations, rights of contribution or indemnification, attorneys' fees, and any and all other liabilities of any kind or nature or description whatsoever, whether arising at law or in equity, under Federal law, State law, common law or any other law, whether known or unknown, asserted or unasserted, express or implied, foreseen or unforeseen, suspected or unsuspected, which the Company ever had, presently has, may have, or claim or assert to have, against the Released Companies from the beginning of time until the date of this Agreement in respect of the condemnation award, or settlement in lieu of condemnation award, arising out of the permanent and temporary condemnation by Texas Eastern Transmission, LP., of certain real property located in the City of Jersey City, New Jersey, as specifically referenced in the matter of Texas Eastern Transmission L.P. v. 1.73 Acres of Land, More or Less, et.al. Docket No. 12-3412-SRC, including, but not limited to, Block 6005, Lots 7 and 13 on the Tax Map of the City of Jersey City.

This Release is intended to be construed to release any and all such claims and rights in respect of such condemnation award, or settlement in lieu of condemnation award, arising on or before the date of execution of this document to the fullest extent permitted by law.

The Hoboken Brownstone Company

By: Daniel Gans
Daniel Gans,
Chief Executive Officer

7/3/13
Date